**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**O. O. C. J.**

COMPANY PETITION NO.1279 OF 1999

M/s. Metal Trading Corporation. ...Petitioner.
Vs.
Shree Heat-Tech Engineers Pvt.Ltd. ...Respondent.
....
Mr. Tushar Goradia for the Petitioner.
None for the Respondent.
.....

**CORAM :DR.D.Y.CHANDRACHUD, J.**
April 23, 2007.

**P.C.**:

The claim of the Petitioner is in respect of the price of goods sold, supplied and delivered. The bills are annexed at Exhibits 'B' to 'B-16'. The total claim is in the amount of Rs.6,45,515/-. Interest has been claimed at the rate of 21% per annum from 21st July 1999. By a letter dated 17th October 1998, the Respondent admitted that an amount of Rs.8,82,039/- was due as on 31st March 1998. A statutory notice was addressed on 20th August 1999 under Sections 433 and 434 of the Companies' Act, 1956. By its reply dated 4th October 1999, the Company merely issued bald denials and sought a joint meeting seeking an amicable settlement.

The petition was admitted on 17th April 2000 and was duly published in two newspapers and the Gazette thereafter.

The principal defence in the affidavit in reply is that the Petitioner has not given credit of a sum of Rs. 25.75 lakhs. Now, a perusal of Exhibit '1' to the affidavit in reply would show that out of 11 entries therein, the first six are for the period prior to 31st March 1998. On 17th October 1998, the Company had acknowledged that an amount of Rs.8,82,039.40 was due as on 31st March 1998. The rest of the entries from Sr.No. 7 to 11 have been duly given credit for in the ledger which is annexed to the statutory notice dated 28th August 1999. Moreover, the total of the entries which are at Sr.Nos. 7 to 11 works out to Rs. 6.75 lakhs and even if these were to be given credit for once again, the company would still be liable in excess of the minimum threshold necessary to maintain a Company Petition for winding up.

In the circumstances, there is no valid and tenable defence to the Company Petition. The Company Petition is accordingly made absolute in terms of prayer clauses (a) and (b).

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